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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

MANUEL SAENZ,

Defendant and Appellant.

F070998

(Super. Ct. No. CRM033276)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Merced County. Mark V. Bacciarini, Judge.

John L. Staley, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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\* Before Kane, Acting P.J., Poochigian, J. and Detjen, J.

Manuel Saenz, Jr. appeals from the judgment entered after he reached a plea agreement. After a thorough review of the record, appellate counsel could not identify any arguable issues. After independently reviewing the record, we affirm the judgment.

### **FACTUAL AND PROCEDURAL SUMMARY**

The complaint charged Saenz with two counts of arson in violation of Penal Code section 451, subdivision (d). The prosecutor explained at the plea hearing that Saenz had started two small fires that caused little damage, but had the potential to cause serious property damage. Prior to the preliminary hearing, Saenz entered into a plea agreement wherein he agreed to plead guilty to one count of reckless burning in violation of Penal Code section 452, subdivision (c), which the complaint would be amended to add, and be placed on probation for three years and serve 180 days in jail. Saenz signed a “FELONY ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM,” which indicated he understood his constitutional rights and waived those rights so that he may enter a plea. At the hearing at which Saenz entered his plea, Saenz confirmed he understood and signed the form. The trial court confirmed that Saenz understood his trial rights and agreed to waive those rights. Saenz then pled no contest to the reckless burning charge, and was sentenced pursuant to the plea agreement.

Saenz was provided with a copy of the interim probation orders applicable to his probation. Approximately one month later, Saenz returned to court so the trial could impose all of the terms of probation. His attorney objected to various gang related conditions such as a prohibition on associating with known gang members, or loitering in areas known to be frequented by gang members because there was no evidence this crime was gang related. The probation officer explained the conditions were recommended because Saenz admitted he was a member of the Norteño criminal street gang, and he had family members who were also members of the gang. The trial court imposed the conditions as reasonably related to Saenz’s rehabilitation.

## **DISCUSSION**

Appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 asserting that after a thorough review of the record he could not identify any arguable issues. On September 24, 2015, we sent a letter to Saenz inviting him to inform us of any issues he wished addressed. Saenz did not respond to our invitation.

Saenz's notice of appeal did not request a certificate of probable cause, and indicated he was appealing only from the sentence or other matters occurring after the plea and that he was not challenging the validity of the plea. We understand this to mean Saenz was seeking review of the gang related probation conditions.

A sentencing court "has 'broad discretion to impose conditions to foster rehabilitation and to protect public safety pursuant to Penal Code section 1203.1.' [Citation.] But such discretion is not unlimited: '[A] condition of probation must serve a purpose specified in the statute,' and conditions regulating noncriminal conduct must be "reasonably related to the crime of which the defendant was convicted or to future criminality.'" [Citation.]" (*People v. Moran* (2016) 1 Cal.5th 398, 403.)

The trial court reasoned the conditions related to criminal street gangs were reasonably related to Saenz's rehabilitation and to preventing future criminality. Saenz admitted he was a member of a criminal street gang, an admission he never refuted. It is readily apparent that associating with a criminal street gang would likely lead to additional criminal conduct and would not encourage rehabilitation. The trial court acted well within its discretion in prohibiting such conduct.

## **DISPOSITION**

The judgment is affirmed.